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Paper Number 14

In re application of
David P. Balding et al.
Serial No. 09/703,846
Filed: November 2, 2000
For: METHOD OF SELECTIVELY SHAPING HOLLOW
FIBERS OF HEAT EXCHANGE CATHETER

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed on September 5, 2003. The petition requests withdrawal of the Notice of Abandonment mailed July 9, 2003, for failure to timely file new formal drawings as required in the Notice of Allowability, be withdrawn since the Notice of Allowability in fact did not require formal drawings.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the request cannot be granted. The applicant is correct in stating that the Notice of Allowability does not require formal drawings as stated in the Notice of Abandonment. It is clear that the Notice of Abandonment should have stated that the "application is abandoned in view of Applicant's failure to timely file a proper response to the Office letter mailed on March 26, 2003" - the incorrect box was checked on the Notice of Abandonment. The Office letter mailed March 26, 2003, clearly states that the drawings filed November 2, 2000 are not acceptable for the reasons identified on the attached PTO-948 and that "Applicant is given one opportunity to correct the informalities within a two month time period from the mailing date of this Notice. THIS TIME PERIOD IS NOT EXTENDABLE UNDER EITHER 37 CFR 1.136(a) OR 1.136(b). Failure to take corrective action within the set period will result in abandonment of the application." Therefore, in view of the failure of the Applicant to correct the drawing informalities within the set two month time period from the mailing date of the March 26, 2003 Office letter it is clear that the application was properly abandoned.

The Petition is **DENIED**.

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